

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
DAVENPORT DIVISION

CALVIN HAMMOCK,)	
)	
Plaintiff,)	Case No. 3:15-cv-00111-JAJ-CFB
)	
v.)	DEFENDANT BLACKBERRY
)	CORPORATION'S MOTION TO
NASA HEADQUARTERS; et al.,)	QUASH SERVICE OF PROCESS AND
)	RESISTANCE TO MOTION FOR
Defendants.)	DEFAULT JUDGMENT
)	

Defendant BlackBerry Corporation ("BlackBerry")¹ hereby moves pursuant to Fed. R. Civ. P. 12(b)(5) to quash the Plaintiff's purported service of the Complaint and Summons and resists Plaintiff's Motion for Default Judgment. In support, BlackBerry states the following:

1. According to an Affidavit of Service filed on December 9, 2015 (Doc. 13), Stephen Hutson delivered a copy of the Summons, Complaint, Exhibits, and other documents filed by the Plaintiff to a receptionist named Bettyna Marnon at BlackBerry's U.S. corporate headquarters in Pleasanton, California.

2. Delivery of process to a receptionist, such as Ms. Marnon, is insufficient service under the Federal Rules of Civil Procedure and applicable state law.

¹ Plaintiff has named "Blackberry (Curve) Corporation" as a defendant in his lawsuit. To our knowledge, no such entity exists. The proper name of the Defendant is BlackBerry Corporation. By filing this motion, BlackBerry does not waive any objections or defenses it may have based on the fact that Plaintiff has named the wrong party.


Consequently, BlackBerry asks that this Court enter an order quashing the Plaintiff's attempted service.

3. Without proper service, all filings against BlackBerry are void, and this Court lacks jurisdiction over BlackBerry. As such, this Court should also deny Plaintiff's Motion for Default Judgment (Doc. 26).

4. Even if the Plaintiff could produce facts to establish that service was proper, there nonetheless exists good cause to deny Plaintiff's Motion for Default Judgment and allow BlackBerry an additional twenty days to file a responsive pleading.

WHEREFORE BlackBerry Corporation prays this Court for an order quashing the purported service of process and denying Plaintiff's Motion for Default Judgment (Doc. 26). In the alternative, BlackBerry Corporation requests an order extending the deadline to file a responsive pleading to the Complaint until twenty days from the Court's order.

WEINHARDT & LOGAN, P.C.

By 

Mark E. Weinhardt

AT0008280

Todd M. Lantz

AT0010162

2600 Grand Avenue, Suite 450

Des Moines, IA 50312

Telephone: (515) 244-3100

E-mail: mweinhardt@weinhardtlogan.com

tlantz@weinhardtlogan.com

ATTORNEYS FOR DEFENDANT
BLACKBERRY CORPORATION

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon the parties to this action electronically via CM/ECF and by serving a copy upon the parties below via U.S. Mail on 1/6, 2015:

Calvin Hammock
5106 Brown Street
Davenport, IA 52806

Space Exploration Technologies Space X
c/o Christopher Cardaci
1030 - 15th Street NW
Suite 220E
Washington DC 20005

Signature: M. Baldus